

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 18392
[REDACTED],)	
)	DECISION
Petitioners.)	
_____)	

On October 26, 2004, the Taxpayer Accounting Section of the Idaho State Tax Commission denied a request for refund by [Redacted] (taxpayers), which was submitted with the filing of their 1998 Idaho individual income tax return on April 15, 2004. The taxpayers requested a refund in the amount of \$1,346.

The taxpayers filed a timely appeal and petition for reconsideration of their denied refund. The taxpayers did not request a hearing and have only submitted the information presented in their protest letter. The Tax Commission having reviewed the file hereby issues its decision.

On April 15, 2004, the taxpayers filed their 1997 and 1998 Idaho individual income tax returns. While processing the returns, Taxpayer Accounting found that the claims for refund were past the statute of limitations. It was also found that the taxpayers overstated the amount of their estimated payment for 1998. Taxpayer Accounting corrected the taxpayers' 1998 return, denied the refund claims, and sent notification of the denial to the taxpayers. The taxpayers accepted the denial of their 1997 claim but protested the denial of their 1998 refund.

The taxpayers stated they overpaid their tentative payment for 1998. They said when they made the payment they were told they would not lose this payment when they completed their returns even if it was over three years. The taxpayers stated they did not owe the state any money at this time and that they were current with their income tax filings.

Idaho Code section 63-3072(b) states in pertinent part,

. . . a claim for credit or refund of tax, penalties, or interest paid shall be made within the later of three (3) years of the due date of the return, without regard to extensions, or three (3) years from the date the return was filed. However, with regard to remittances received with an extension of time to file, or a tentative return, a claim for credit or refund of such remittances shall be made within three (3) years from the due date of the return without regard to extensions.

The Idaho Code clearly states the time requirements for filing a return requesting a refund of taxes paid. The taxpayers filed their 1998 return on April 15, 2004. The 1998 return had a due date of April 15, 1999. The statute of limitations for getting a refund closed April 15, 2002. Since the taxpayers filed their return well after the statute of limitations ended, the Tax Commission must deny the taxpayers' request for refund.

It is unfortunate the taxpayers were misled by the statement that they would not lose their payment even if they filed their return after the three-year statute. It is not clear where or from whom the taxpayers got that information. Nevertheless, if an employee of the Tax Commission made the statement, the Tax Commission is not estopped by the previous acts, conduct, mistakes, or misinformation of its officers from collecting the tax. State of Idaho v. Adams, 90 Idaho 195, (1965). Although this is not a collection issue, the Tax Commission cannot change the law to suit the circumstances; it must enforce the law as it is written.

Therefore, since the law is clear with regard to issuing refunds, the Tax Commission must uphold the determination made by Taxpayer Accounting.

WHEREFORE, the Notice of Deficiency Determination dated October 26, 2004, is hereby APPROVED, AFFIRMED AND MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers' refund for the taxable year 1998 in the total amount of \$1,311 be DENIED.

An explanation of the taxpayers' right to appeal this decision is included with this decision.

DATED this ____ day of _____, 2005.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2005, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]
[REDACTED]
[REDACTED]

Receipt No.